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United Nations

Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

Fifth session
(30 October-3 November 2006)

Sixth session
(23-27 April 2007)

General Assembly
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Supplement No. 48 (A/62/48)

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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Convention

1. On 27 April 2007, the closing date of the sixth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, there were 36 States parties to the International Convention on the Rights of All Migrant Workers and Members of Their Families. The Convention was adopted by the General Assembly in resolution 45/158 of 18 December 1990 and entered into force on 1 July 2003, in accordance with the provisions of its article 87, paragraph 1. A list of States that have signed, ratified or acceded to the Convention is contained in annex I to the present report.

B. Meetings and sessions

2. The Committee held its fifth session at the United Nations Office at Geneva from 30 October to 3 November 2006. The Committee held 10 plenary meetings (CMW/C/SR.39-48). The provisional agenda, contained in document CMW/C/5/1, was adopted by the Committee at its 39th meeting, on 30 October 2006. The Committee held its sixth session at the United Nations Office at Geneva from 23 to 27 April 2007. The Committee held 10 plenary meetings (CMW/C/SR.49-58). The provisional agenda, contained in document CMW/C/6/1, was adopted by the Committee at its 49th meeting, on 23 April 2007. A list of documents issued or to be issued in connection with the fifth and sixth sessions of the Committee is given in annex VI.

C. Membership and attendance

3. All members of the Committee attended the fifth session. The list of the members of the Committee, together with an indication of the duration of their terms of office, appears in annex II to the present report. Ana Elizabeth Cubias Medina and Anamaría Dieguez did not attend the Committee's sixth session.

D. Future meetings of the Committee

4. At its 58th meeting (sixth session), on 27 April 2007, the Committee decided that its seventh session would be held from 26 to 30 November 2007, at the United Nations Office at Geneva.

5. At its 58th meeting (sixth session), the Committee considered that in view of the number of reports received, it needed more meeting time in order to fulfil effectively the functions with which the Convention had entrusted it. It therefore decided to request the Secretary-General to arrange two sessions for the Committee in 2008, of two weeks duration in spring and of one week's duration in autumn. In accordance with rule 19 of the Committee's provisional rules of procedure, the Secretary-General prepared and circulated to the Committee's members a written estimate of the costs involved in the decision (see annex III). The sessions of the Committee will be held at the United Nations Office at Geneva.

E. Participation in inter-committee meeting and working groups

6. Ahmed El Borai represented the Committee at the meetings of the inter-committee working group on reservations, which took place on 8 and 9 June and on 14 (afternoon) and 15 December 2006.

7. Mr. El Borai and Mehmet Sevim represented the Committee at the fifth inter-committee meeting, which was held from 19 to 21 June 2006, together with Vice-Chairperson Ms. Cubias Medina, who participated also in the 18th meeting of chairpersons of the human rights treaty bodies, which took place from 22 to 23 June 2006.

8. The Chairperson, Prasad Kariyawasam, and Mr. Sevim represented the Committee at the brainstorming meeting on reform of the human rights treaty body system which was held in Malbun, Liechtenstein, from 14 to 16 July 2006.

9. José Brillantes represented the Committee at the seminar on the follow-up to concluding observations, which was held at the United Nations Office at Geneva on 9 and 10 November 2006.

10. Francisco Alba represented the Committee at the meeting of the Working Group on harmonization of working methods, which was held at the United Nations Office at Geneva from 27 to 28 November 2006.

F. Promotion of the Convention

11. The Committee, at its 41st meeting (fifth session) discussed the follow-up to the General Assembly's High-Level Dialogue on Migration and Development held in September 2006. The Committee recognized that at the High-Level Dialogue a human rights-based approach to migration had not yet been accepted by all States. The Committee resolved to follow closely the processes of continued dialogue on this subject, and in particular the consultative Forum to be hosted by Belgium in the summer of 2007. At its 52nd meeting (sixth session) the Committee decided to request the Office of the United Nations High Commissioner for Human Rights to take all possible action to facilitate the representation of the Committee at the Global Forum on Migration and Development, hosted by Belgium in July 2007.

12. At its 44th meeting (fifth session) the Committee discussed ways and means of promoting the Convention. It noted with appreciation the many efforts made by civil society to promote the ratification of the Convention, and welcomed the Santa Cruz Declaration adopted at the Eighth International Conference of National Institutions for the Promotion and Protection of Human Rights (24-26 October 2006), which called for ratification and implementation of the Convention.

13. The Committee further decided to authorize its Chairperson to address a letter to the High Commissioner for Human Rights, asking for more active support in the promotion of the Convention.

14. At its 54th meeting (sixth session) the Committee decided to organize a public event during one of its sessions in 2008 in order to celebrate the five-year anniversary of the entry into force of the Convention.

G. Treaty body reform

15. The Committee, at its 41st meeting (fifth session) started discussing the concept paper of the High Commissioner for Human Rights on a unified standing treaty body. At its 54th meeting (sixth session) the Committee discussed its position towards the High Commissioner's proposal and other matters concerning the harmonization of working methods. The Committee's position paper is contained in annex IV to the present report.

H. Adoption of the report

16. At its 58th meeting (sixth session), the Committee adopted its annual report to the General Assembly.

II. COOPERATION WITH CONCERNED BODIES

17. The Committee continued its cooperation with United Nations agencies, intergovernmental organizations and non-governmental organizations. It particularly welcomed their contributions in relation to the consideration of States parties' reports.

III. REPORTS BY STATES PARTIES UNDER ARTICLE 73 OF THE CONVENTION

18. During its fifth session, the Committee noted with concern that many initial reports from States parties under article 73 of the Convention had not yet been received. It decided to send reminders to those States parties whose reports were overdue. Annex V to the present report contains a table showing the dates by which the initial reports of States parties should be submitted.

19. At its sixth session, on 25 April 2007, the Committee held a meeting with States parties in order to discuss the status of reporting as well as promotion of the Convention. The meeting was attended by representatives of 18 States parties. The Committee welcomes the constructive exchange of views with the States parties and takes note that many States parties stated that they were in the process of finalizing the preparation of their initial reports.

IV. CONSIDERATION OF REPORTS BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 74 OF THE CONVENTION

MEXICO

20. The Committee considered the initial report of Mexico (CMW/C/MEX/1) at its 40th and 42nd meetings (fifth session), held on 30 and 31 October 2006. At its 47th meeting, held on 3 November 2006, it adopted the following concluding observations.

A. Introduction

21. The Committee welcomes the submission of the initial report of the State party and is gratified by the constructive and fruitful dialogue initiated with a competent high-level delegation. The Committee thanks the State party for its detailed replies to the list of issues and the additional information submitted by the delegation which enabled the Committee to gain a clearer idea of the situation with regard to the implementation of the Convention in the State party.

22. The Committee recognizes that Mexico is a country of migrants, with significant numbers of the three traditional types of migrant, as it is a country of origin, transit and destination for migrant workers.

23. The Committee notes that some of the countries in which Mexican migrant workers are employed are not yet parties to the Convention, which may constitute an obstacle to the enjoyment by those workers of the rights to which they are entitled under the Convention.

B. Positive aspects

24. The Committee appreciates the fact that the State party considers the question of migration as a priority of its domestic and foreign policy agenda.

25. The Committee acknowledges the State party's very active participation at the international level in efforts to promote the ratification of this Convention, as was mentioned in the report.

26. The Committee takes note with satisfaction of the existence of the Beta Migrant Protection Groups with responsibility for protecting and counselling migrants on the country's northern and southern borders.

27. The Committee notes with satisfaction the implementation of migration regularization programmes implemented by the Government with the aim of documenting thousands of illegal migrants.

28. The Committee welcomes the information that civil society organizations were involved in the preparation of the State party's initial report. It also notes with satisfaction that civil society organizations are also participating in the Subcommission for the Protection of the Human Rights of Migrants established within the Commission on Governmental Policy.

29. The Committee also recognizes the efforts made by the State party for voting rights to be extended to Mexican citizens resident abroad.

30. The Committee also welcomes the ratification of the following instruments:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants By Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 4 May and 4 March 2003 respectively;

(b) International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified on 30 June 2000;

(c) The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, ratified on 15 March 2002;

(d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified on 11 April 2005.

C. Factors and difficulties impeding implementation of the Convention

31. The Committee notes the very significant increase in migration flows within the State party in recent years, which makes full implementation of the Convention difficult, particularly at the local level.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and application

32. The Committee notes with concern the State party's reservation to article 22, paragraph 4, of the Convention, given the fact that article 33 of the Constitution stipulates that the Executive has exclusive authority to expel from the national territory, immediately and without a judicial hearing, any foreigner whose residence in Mexico it deems undesirable.

The Committee recommends that the State party should consider taking the necessary legislative measures to withdraw its reservation to article 22, paragraph 4, of the Convention, in order to guarantee the right of the persons concerned to explain their reasons for objecting to their expulsion and to submit their case to the competent authority. It also recommends that the State party should:

(*a*) Ensure that migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by the competent authority in conformity with the law;

(*b*) Notify the expulsion decision to the migrant workers and members of their families in a language they understand, and indicate the reasons for the decision, save in exceptional circumstances justified by reasons of national security;

(*c*) Guarantee the right to claim compensation in conformity with the law when an already executed expulsion decision is subsequently rescinded.

33. The Committee takes note of the migration reform initiatives before Congress to amend the General Population Act promulgated in 1974. The Committee is nevertheless concerned at the fact that these initiatives have not made much headway in Congress and that articles 118 to 125 of the General Population Act, which stipulate that infractions relating to migration may be subject to criminal proceedings, remain in force.

The Committee recommends that the State party direct its efforts towards the formulation of a migration law which corresponds to the new migration situation in Mexico and is in conformity with the provisions of the Convention and other applicable international instruments. This law should, inter alia, annul the classification of illegal entry into the country as an offence punishable by deprivation of liberty.

34. The Committee notes that Mexico has not yet made the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive communications from States parties and individuals.

The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention.

35. The Committee notes that Mexico has still not acceded to the ILO Migration for Employment Convention (Revised), 1949 (No. 97) or the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

The Committee invites the State party to consider acceding to ILO Conventions No. 97 and No. 143, which concern migrant workers, as soon as possible.

Training in and dissemination of the Convention

36. The Committee notes with satisfaction that the National Institute for Migration (INM) periodically organizes technical training courses for administrative officials focusing on the protection of the human rights of migrants, with special emphasis on the rights of women migrants, in conjunction with the National Institute for Women (INMUJERES).

The Committee invites the State party to continue training all officials working in the area of migration, especially at the local level, and in particular INM personnel and Federal Preventive Police (PFP) personnel involved in support for the INM in the area of migration management, and also officials working for the Beta Groups.

The Committee also recommends that the State party should provide adequate financial and human resources to the INM in order that the latter may properly implement all migration activities provided for in its mandate.

2. General principles (arts. 7 and 83)

Non-discrimination

37. The Committee welcomes the promulgation, in 2003, of the Federal Act to Prevent and Eliminate Discrimination, and also the establishment of the National Council for the Prevention of Discrimination (CONAPRED) in 2004 and its National Programme for the Prevention and Elimination of Discrimination in 2006. The Committee is nevertheless concerned at the fact that migrant workers and members of their families suffer from various forms of discrimination in the area of employment and from social stigmatization. The Committee expresses its particular concern at the situation of indigenous migrants and women migrants, who suffer from dual discrimination in the enjoyment of their rights, especially their economic, social and cultural rights, and are more vulnerable to violations and abuses.

The Committee encourages the State party:

(*a*) To intensify its efforts to ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in conformity with article 7;

(*b*) To intensify its efforts by promoting information campaigns for public officials working in the area of migration, especially at the local level, and for the general public on the elimination of discrimination against migrants, and combat their social marginalization and stigmatization, including the media in these activities.

Right to an effective remedy

38. The Committee takes note of the information received by the State party that, notwithstanding the fact that article 67 of the General Population Act only authorizes legally resident foreigners to institute legal proceedings, that provision does not affect the right of every migrant worker to an effective remedy in conformity with article 83 of the Convention. The Committee is nevertheless concerned that this provision may in practice give rise to discriminatory treatment of undocumented migrant workers, which would limit their access to justice.

The Committee recommends that the State party should ensure that:

(*a*) In legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts;

(*b*) Any person whose rights or freedoms, as recognized in this Convention, have been violated may obtain effective redress.

3. Human rights of all migrant workers and members of their families (arts. 8-35)

39. The Committee welcomes the programme for upgrading migrant holding centres in order to improve conditions there, and the opening of the new Siglo XXI holding centre in Tapachula. It also welcomes the launch of the Migrant Holding Centre Securing and Transfer System (SICATEM), which makes it possible to ascertain the number of foreigners secured in each centre and thereby prevent overcrowding in those centres. Nevertheless, the Committee remains concerned at the difficult detention conditions in certain centres, where cases of cruel and degrading treatment have been reported, and overcrowding, lack of medical care and failure to notify consulates are commonplace. The Committee is also concerned at the fact that premises designed for pretrial detention are still being used as migrant holding centres.

The Committee recommends that the State party should:

(*a*) Continue to take steps to improve conditions of detention in migrant holding centres in accordance with international standards, and to solve the overcrowding problem;

(*b*) Stop using premises designed for pretrial detention, and/or for deprivation of liberty of persons in conflict with the law, for the purpose of securing migrants;

(*c*) Investigate all complaints of ill-treatment and cruel and degrading treatment on the part of State officials in migrant holding centres and punish the culprits;

(*d*) Notify the consular or diplomatic authorities of the State of origin without delay whenever a migrant worker or a member of his family is arrested or detained, if so requested by the individual concerned;

(*e*) Ensure that migrants are deprived of their liberty for as short a time as possible.

40. The Committee is concerned at reports confirming the use of ill-treatment, extortion and theft by State officials and private security personnel against migrant workers and members of their families, including children and women, particularly those who have no migration papers. It is also concerned at the recurrent acts of violence and attacks against migrants by ordinary criminals, which frequently go unpunished.

The Committee recommends that the State party should continue and step up its efforts to address as a matter of urgency the problem of ill-treatment and other acts of violence against migrant workers and their families, regardless of who is responsible. In particular, the Committee urges the State party to ensure that such acts are investigated and the culprits brought to trial and punished.

41. The Committee notes that, under the General Population Act and its regulations, only officials of the National Institute for Migration and the Federal Preventive Police are empowered to carry out appropriate duties related to immigration control and supervision of foreign men and women in the country. It also notes that, under article 73 of the General Population Act, other authorities who by law have federal, local or municipal forces under their command, may provide assistance to the migration authorities when so requested. However, the Committee is disturbed to find that in certain cases authorities not so empowered, including members of the Armed Forces and private security personnel, carry out migration control-activities and arrests.

The Committee recommends that the State party, and more specifically the National Institute for Migration, should take appropriate steps to ensure that migration control and securing of migrants are carried out exclusively by the competent authorities and that every violation in this regard is promptly reported.

42. Despite the State party's efforts, the Committee remains disturbed by the extreme vulnerability of undocumented women migrant workers in domestic service, particularly on the southern border, many of whom are subjected to illegal working conditions, degrading housing conditions, ill-treatment, extortion and even sexual harassment or rape by their employers.

The Committee recommends that the State party should continue to take appropriate measures to protect women domestic workers, including access to regular migration status and greater and more systematic involvement of the labour authorities in monitoring their working conditions. It also recommends that women migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be investigated and punished.

4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56)

43. With reference to article 40 of the Convention, the Committee is concerned at the fact that article 372 of the Federal Labour Act prohibits foreigners from forming part of the leadership of trade unions.

The Committee recommends that the State party should take the necessary measures, including legislative amendments, to guarantee to migrant workers and members of their families the right to form, and to form part of the leadership of, associations and unions, in accordance with article 40 of the Convention.

5. Provisions applicable to particular categories of migrant workers and members of their families (arts. 57-63)

44. The Committee is concerned at the situation of seasonal agricultural workers who are subjected to inequitable working conditions, including long hours, low wages and late payment of wages. The Committee is also concerned that ill-treatment by their employers is not uncommon.

The Committee recommends that the State party should take the necessary steps to improve the working conditions of seasonal agricultural workers by, for example, ensuring systematic monitoring by the Federal Labour Inspectorate of compliance with the standards governing the work of agricultural day labourers. It also recommends that all allegations of abuses, including ill-treatment, should be investigated and the culprits punished.

6. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64-71)

45. The Committee welcomes the measure taken by the National Institute for Migration to make it easier for foreigners who are victims of crime or of human rights violations, including trafficking in persons, to remain in Mexico. The Committee also takes note of the project

"Combating the trafficking of women, adolescents and children in Mexico 2004-2005" and of the measures taken to combat migrant-smuggling. The Committee is nevertheless concerned at the following:

(a) The extent of the problems of trafficking in persons and migrant-smuggling in the State party;

(b) The fact that the offence of trafficking in persons is not adequately defined in the law;

(c) The involvement of State officials in criminal acts of this kind.

The Committee urges the State party to:

(*a*) Finalize the amendment to the Criminal Code in order to define trafficking in persons as a criminal offence;

(*b*) Step up its efforts to counter migrant-smuggling and trafficking in persons, especially women and children, inter alia by taking appropriate steps to detect the illegal or clandestine movement of migrant workers and their families and punish the criminals and/or groups who orchestrate or assist such movement;

(*c*) Properly investigate complaints of involvement by State officials in such offences and duly prosecute and punish the culprits.

46. The Committee welcomes the State party's efforts to care for the large numbers of unaccompanied minors on the northern and southern borders, inter alia through the inter-agency programme for the care of border-area minors and the other programmes for safe and orderly repatriation. However, the Committee remains concerned - like the Committee on the Rights of the Child - at the situation of extreme vulnerability of a great many unaccompanied minors (whether repatriated from Mexico to their countries of origin or repatriated to Mexico), which leaves them at very high risk of exploitation of various kinds, including trafficking for purposes of labour and sexual exploitation.

The Committee recommends that the State party should pay particular attention to the vulnerable situation of migrant unaccompanied minors. In particular, the State party should:

(*a*) Strengthen its programmes for the safe and orderly repatriation of unaccompanied minors on the southern and northern borders;

(*b*) Provide specific training in children's rights for State officials working in border areas who come into contact with unaccompanied minors;

(*c*) Ensure that detention of migrant children and adolescents, accompanied or otherwise, is carried out in accordance with the law and used only as a last resort and for the shortest possible time;

(*d*) Strengthen its cooperation with civil society and international organizations, in order to address the growing problem of unaccompanied minors.

7. Follow-up and dissemination

Follow-up

47. The Committee requests the State party to include in its second periodic report detailed information on measures taken to follow up on the recommendations made in these concluding observations. The Committee recommends that the State party should take all appropriate measures to ensure that these recommendations are implemented, including by transmitting them for consideration and action to members of the Government and Congress, as well as local authorities.

Dissemination

48. The Committee likewise requests the State party to disseminate these concluding observations widely, including to public agencies and the judiciary, non-governmental organizations and other members of civil society, and to inform Mexican migrants abroad and foreign migrant workers in transit or residing in Mexico of the rights they and members of their families enjoy under the Convention.

8. Next periodic report

49. The Committee requests the State party to submit its second periodic report by 1 July 2009.

EGYPT

50. The Committee considered the initial report of Egypt (CMW/C/EGY/1) at its 50th and 51st meetings (see CMW/C/SR.50 and SR.51), held on 23 and 24 April, and adopted the following concluding observations at its 57th meeting, held on 27 April.

A. Introduction

51. The Committee welcomes the submission of the initial report of the State party and is gratified by the constructive and fruitful dialogue initiated with a competent high-level delegation. The Committee thanks the State party for its written replies to the list of issues (CMW/C/EGY/Q/1/Add.1) and the additional information submitted by the delegation, which enabled the Committee to gain a clearer idea of the situation with regard to the implementation of the Convention in the State party.

52. The Committee recognizes that Egypt is a country with significant numbers of all three types of migrants, as it is a country of origin, transit and destination for migrant workers.

53. The Committee notes that most of the countries in which Egyptian migrant workers are employed are not yet parties to the Convention, which may constitute an obstacle to the enjoyment by those workers of the rights to which they are entitled under the Convention.

B. Positive aspects

54. The Committee appreciates the State party's commitment to migrant workers' rights as illustrated by the fact that it was the first country to accede to the Convention.

55. The Committee appreciates the State party's ongoing efforts to regulate private recruitment agencies and to close down those which do not comply with the Labour Code.

56. The Committee also welcomes that the State party has adhered to the following instruments:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants By Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 5 March 2004 and acceded on 1 March 2005, respectively;

(b) International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ratified on 6 May 2002;

(c) The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict, acceded on 12 July 2002 and 6 February 2007, respectively.

C. Factors and difficulties impeding implementation of the Convention

57. While the Committee notes that the State party envisages the possibility of lifting the state of emergency which has been in force since 1981, it also takes note that an amendment to the Constitution adopted on 19 March 2007 allows for the adoption of anti-terrorism legislation. The Committee remains concerned that this new legislation may affect the implementation of certain laws and international treaties, including the Convention.

58. The Committee notes with concern that Law No. 84 of 2002 places restrictions on the activities of non-governmental organizations working in the field of human rights, including the rights of migrant workers. It emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation (arts. 73 and 84)

Legislation and application

59. The Committee notes with concern the State party's reservations to article 4 and article 18, paragraph 6, of the Convention.

The Committee encourages the State party to review its reservations to article 4 and article 18, paragraph 6, of the Convention, with a view to withdrawing them. In this context, the Committee recalls that the State party has not made a reservation to

article 14, paragraph 6, of the International Covenant on Civil and Political Rights which provides all individuals, including migrant workers, with the right to claim compensation for wrongful conviction.

60. The Committee notes that Egypt has not yet made the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive communications from States parties and individuals.

The Committee encourages the State party to consider making the declarations provided for in articles 76 and 77 of the Convention.

61. The Committee notes that Egypt has still not acceded to ILO Convention No. 97 (1949), concerning Migration for Employment (Revised), or to Convention No. 143 (1975) concerning Migrant Workers (Supplementary Provisions).

The Committee invites the State party to consider acceding to ILO Conventions No. 97 and No. 143, which concern migrant workers, as soon as possible.

Data collection

62. The Committee regrets the lack of precise statistics on migration flows concerning Egypt and on other migration-related issues. The Committee recalls that such information is indispensable to an understanding of the situation of migrant workers in the State party and to an assessment of the implementation of the Convention.

The Committee encourages the State party to pursue its efforts to create a sound database in line with all aspects of the Convention as a tool for effective migration policy and for the application of the various provisions of the Convention.

Training in and dissemination of the Convention

63. The Committee notes that the State party has not organized trainings on the Convention, nor adopted enough measures to disseminate the Convention among all the relevant stakeholders.

The Committee encourages the State party to initiate trainings for all officials working in the area of migration, in particular police and border personnel as well as officials at the local level dealing with migrant workers. It also encourages the State party to take the necessary steps to ensure access by migrant workers to information about their rights under the Convention.

2. General principles (arts. 7 and 83)

Non-discrimination

64. The Committee notes that the principle of non-discrimination as defined in article 40 of the Constitution refers only to Egyptian citizens. The Committee is concerned about reports that some migrant workers and members of their families suffer from various forms of discrimination in the area of employment, housing, limited access to health and education and from social stigmatization.

The Committee encourages the State party to intensify its efforts:

(*a*) To ensure that all migrant workers and members of their families within its territory or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination, in conformity with article 7;

(*b*) To promote information campaigns for public officials working in the area of migration, especially at the local level, and for the general public on the elimination of discrimination against migrants, and to combat their social marginalization and stigmatization.

Right to an effective remedy

65. The Committee takes note of the information received by the State party that, according to constitutional case No. 8 of Constitutional year 8, every individual, whether citizen or alien, has access to the courts of law and enjoys protection of the rights laid down in the legislation. The Committee remains nevertheless concerned that migrant workers, irrespective of their legal status, have in practice limited access to justice because they are unaware of the administrative and judicial remedies that are available to them.

The Committee encourages the State party to pursue its efforts to inform migrant workers about administrative and judicial remedies and to address their complaints in the most effective manner. It recommends that the State party ensure that:

(*a*) In legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts;

(*b*) Any person whose rights or freedoms, as recognized in this Convention, have been violated may obtain effective redress.

3. Human rights of all migrant workers and members of their families (arts. 8-35)

66. The Committee notes with concern that the inquiry into the events of 30 December 2005 has been closed without clarifying the circumstances leading to the deaths of 27 Sudanese migrants. It also expresses its concern at reports that eyewitnesses were not heard in the course of the investigation.

The Committee recommends that the investigation into the events of 30 December 2005 be reopened in order to clarify the circumstances leading to the deaths of the Sudanese migrants. Whatever those circumstances, it also recommends that measures be adopted to prevent the occurrence of similar events in the future.

67. The Committee takes note of the information received from the State party according to which, in accordance with Supreme Constitutional Court ruling No. 243/21 issued on 4 November 2000, the Passports Act No. 97 of 1959 was amended in order to allow women

to obtain a passport without the permission of any third party. Nonetheless, the Committee is concerned that, in practice, some police officials reportedly still require women to obtain permission from their husbands or relatives in order to obtain a passport.

The Committee recommends that the State party ensure that, in practice, passports are issued to women who request a passport without the permission of any third party.

68. While noting the State party's assertion that there are no migrant workers in administrative detention, the Committee remains concerned about information according to which some migrant workers are arrested without warrant and if they are unable to show valid identity documents, are detained by law enforcement officials and allegedly sometimes subjected to torture or ill-treatment.

The Committee recommends that adequate training be provided to all judicial personnel and law enforcement officials on respect for human rights and non-discrimination on ethnic or racial grounds. The Committee also recommends that the State party take measures to investigate promptly all complaints of torture or ill-treatment of migrant workers while in detention, and to prosecute and punish the perpetrators.

69. The Committee notes with concern that under article 27 of the Labour Code, the protection afforded to migrant workers by the Code is subject to a reciprocal agreement. The Committee recalls that article 25 of the Convention does not make any reference to a principle of reciprocity and provides that there should be equal treatment between migrant workers and nationals in respect of remuneration and other conditions of work and employment.

The Committee recommends that the State party amend article 27 of the Labour Code in order to remove this condition and ensure that all migrant workers benefit from equal treatment in respect of remuneration and other conditions of work and employment.

70. The Committee expresses its concern that foreign migrant workers seeking permission to work in Egypt must provide a certificate proving that they do not carry HIV/AIDS. It recalls that, according to the ILO Code of Practice on HIV/AIDS and the World of Work, HIV testing should not be required at the time of recruitment.

The Committee recommends that medical tests of migrant workers be in conformity with the ILO Code of Practice on HIV/AIDS and the World of Work and the International Guidelines on HIV/AIDS and human rights.

71. The Committee regrets that children born in Egypt of migrant workers, whether in regular or irregular situation, are not given a birth certificate by the Egyptian civil registry, in violation of article 29 of the Convention, which provides that each child of a migrant worker shall have the right to a name, to registration at birth and to a nationality.

The Committee recommends that each child born in Egypt of a migrant worker be ensured the right to a name, to registration at birth and to a nationality in accordance with article 29 of the Convention and to the delivery of a birth certificate by the Egyptian civil registry.

72. The Committee notes with concern that most children of documented migrant workers do not have access to public schools and that the children of undocumented migrant workers do not have any access to the schooling system, whether public or private.

The Committee recommends that the State party grant all children of migrant workers, whether documented or undocumented, access to schools on the basis of equality of treatment with Egyptian children in accordance with article 30 of the Convention.

73. The Committee notes that article 4 (b) of the Labour Code stipulates that the provisions of that law shall not apply to domestic service workers, including foreign domestic workers. It also notes with concern the rising number of migrant domestic workers and the absence of legal protection afforded to them.

The Committee recommends that the Labour Code be amended in order to apply to domestic workers, including migrant domestic workers, or that new legislation be adopted to provide protection to them. It also recommends that the State party should take appropriate measures to protect migrant domestic workers, particularly women domestic workers. It also recommends that migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be promptly investigated and punished.

74. While welcoming the State party's ongoing efforts to disseminate information about the Convention among Egyptian migrant workers seeking to work abroad, the Committee notes that the public information made available to migrant workers rarely refers to their rights arising out of the Convention.

The Committee encourages the State party to pursue its efforts to raise awareness of the rights arising out of the Convention among migrant workers and those seeking to migrate abroad to work.

4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56)

75. The Committee expresses its concern at the fact that Egyptian migrant workers abroad are not able to exercise their right to vote in Egypt.

The Committee encourages the State party to continue its efforts to facilitate the exercise of voting rights by Egyptian migrant workers residing abroad.

5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64-71)

76. The Committee notes that the information before it is unclear as to whether the High-Level Committee for Emigration has actually been established and what it has achieved so far.

The Committee recommends that the State party provide adequate financial and human resources to the High-Level Committee for Emigration in order that the latter may properly implement all migration activities provided for in its mandate, as defined in Law No. 111 of 1983.

77. The Committee notes that a number of complaints have been received by the Egyptian National Council for Human Rights concerning the rights of Egyptian migrant workers abroad and is concerned about the alleged lack of necessary assistance from consular services. In particular, it notes with concern information according to which some Egyptian migrant workers were not given travel documents to return to Egypt after being issued with expulsion decisions in the host country and recalls that migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin (article 8 of the Convention).

The Committee recommends that consular services respond more effectively to the need for protection of Egyptian migrant workers and members of their families, and, in particular, provide the necessary assistance to those in detention and promptly issue travel documents to all Egyptian migrant workers and members of their families who wish or have to return to Egypt. It also recommends that the mechanisms for receiving complaints from migrant workers be improved and generalized in all embassies and consulates.

78. The Committee is concerned at the situation of Egyptian migrant workers who are the victims of a "sponsorship" or *kafalah* system designed to give the sponsor control over them for the duration of their stay in the State of employment, most notably in the Gulf countries, and sometimes even to prevent them from returning to Egypt.

The Committee recommends that the State party encourage its embassies and consulates to provide assistance to migrant workers who are subject to such a "sponsorship" or *kafalah* system and that it endeavour to negotiate with the relevant countries of destination in order that such a system be abolished.

79. While noting that the State party is mainly a transit country for victims of trafficking, the Committee takes note of the State party's willingness to address the emerging problem of trafficking in persons. It regrets the fact that there is no specific anti-trafficking legislation in force.

The Committee urges the State party to:

(*a*) Adopt specific anti-trafficking legislation;

(b) **Step up its efforts to counter migrant-smuggling and trafficking in persons, especially women and children, inter alia by taking appropriate steps to detect the illegal or clandestine movements of migrant workers and their families and punish the criminals and/or groups who orchestrate or assist such movements.**

6. Follow-up and dissemination

Follow-up

80. While the Committee welcomes the initial report's detailed description of the laws and regulations related to the provisions of the Convention, the Committee requests the State party to provide detailed information in its second report on how these laws and regulations are implemented in practice.

81. The Committee requests the State party to include in its second periodic report detailed information on measures taken to follow up on the recommendations made in these concluding observations. The Committee recommends that the State party should take all appropriate measures to ensure that these recommendations are implemented, including by transmitting them for consideration and action to members of the Government and Parliament, as well as local authorities.

Dissemination

82. The Committee likewise requests the State party to disseminate these concluding observations widely, including to public agencies and the judiciary, non-governmental organizations and other members of civil society, and to inform Egyptian migrants abroad and foreign migrant workers in transit or residing in Egypt of the rights they and members of their families enjoy under the Convention.

7. Next periodic report

83. The Committee requests the State party to submit its second periodic report by 1 July 2009.

Annex I

STATES THAT HAVE SIGNED, RATIFIED OR ACCEDED TO THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES AS AT 27 APRIL 2007

State	Signature	Ratification or accession[a]
Algeria		21 April 2005[a]
Argentina	10 August 2004	23 February 2007
Azerbaijan		11 January 1999[a]
Bangladesh	7 October 1998	
Belize		14 November 2001[a]
Benin	15 September 2005	
Bolivia		16 October 2000[a]
Bosnia and Herzegovina		13 December 1996[a]
Burkina Faso	16 November 2001	26 November 2003
Cambodia	27 September 2004	
Cape Verde		16 September 1997[a]
Chile	24 September 1993	21 March 2005
Colombia		24 May 1995[a]
Comoros	22 September 2000	
Ecuador		5 February 2002[a]
Egypt		19 February 1993[a]
El Salvador	13 September 2002	14 March 2003
Gabon	15 December 2004	
Ghana	7 September 2000	7 September 2000
Guatemala	7 September 2000	14 March 2003
Guinea		7 September 2000[a]
Guinea-Bissau	12 September 2000	
Guyana	15 September 2005	
Honduras		9 August 2005[a]
Indonesia	22 September 2004	
Kyrgyzstan		29 September 2003[a]
Lesotho	24 September 2004	16 September 2005
Liberia	22 September 2004	
Libyan Arab Jamahiriya		18 June 2004[a]
Mali		5 June 2003[a]

State	Signature	Ratification or accession[a]
Mauritania		22 January 2007[a]
Mexico	22 May 1991	8 March 1999
Morocco	15 August 1991	21 June 1993
Nicaragua		26 October 2005[a]
Paraguay	13 September 2000	
Peru	22 September 2004	14 September 2005
Philippines	15 November 1993	5 July 1995
Sao Tome and Principe	6 September 2000	
Senegal		9 June 1999[a]
Serbia and Montenegro	11 November 2004	
Seychelles		15 December 1994[a]
Sierra Leone	15 September 2000	
Sri Lanka		11 March 1996[a]
Syrian Arab Republic		2 June 2005
Tajikistan	7 September 2000	8 January 2002
Timor-Leste		30 January 2004[a]
Togo	15 November 2001	
Turkey	13 January 1999	27 September 2004
Uganda		14 November 1995[a]
Uruguay		15 February 2001[a]

Annex II

MEMBERSHIP OF THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Name of the member	Country of nationality	Term expires on 31 December
Mr. Francisco ALBA	Mexico	2007
Mr. José Serrano BRILLANTES	Philippines	2009
Mr. Francisco CARRIÓN-MENA	Ecuador	2007
Ms. Ana Elizabeth CUBIAS MEDINA	El Salvador	2007
Ms. Anamaría DIEGUEZ	Guatemala	2009
Mr. Ahmed Hassan EL-BORAI	Egypt	2007
Mr. Abdelhamid EL JAMRI	Morocco	2007
Mr. Prasad KARIYAWASAM	Sri Lanka	2009
Mr. Mehmet SEVIM	Turkey	2009
Mr. Azad TAGHIZADE	Azerbaijan	2009

Composition of the Bureau

Chairperson: Mr. Prasad KARIYAWASAM (Sri Lanka)

Vice-Chairpersons: Mr. José Serrano BRILLANTES (Philippines)

Ms. Ana Elizabeth CUBIAS MEDINA (El Salvador)

Mr. Abdelhamid EL JAMRI (Egypt)

Rapporteur: Mr. Francisco ALBA (Mexico).

Annex III

ORAL STATEMENT IN ACCORDANCE WITH RULE 19 OF THE PROVISIONAL RULES OF PROCEDURE

1. This statement is made in accordance with rule 19 of the rules of procedure of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

2. At its 58th meeting (sixth session), the Committee decided to request the Secretary-General to arrange two sessions for the Committee in 2008, one session of two weeks duration and the other of one-week duration. This arrangement would replace the one three-week session per year for which provision has been made under sections 2 and 28E in the proposed programme budget for the biennium 2008-2009.

3. The total estimated provision for travel and daily subsistence allowance for the independent experts proposed in the 2008-2009 proposed programme budget amount to US$ 183,200 ($91,600 per year) under section 23, Human Rights.

4. Total full costs of travel and daily subsistence allowance for the independent experts of the activities envisaged under the terms of the decision would amount to US$ 180,000 for 2008 under section 23, Human Rights.

5. There would not be any additional requirements related to conference services to be provided to the Committee, since the pattern of meetings proposed for 2008 remain unchanged.

6. Should the draft decision be adopted by the Committee, total additional full cost for activities envisaged under the draft decision for the year 2008 would amount to $88,400, under section 23, Human Rights, of the proposed programme budget for the biennium 2008-2009.

7. Although it is estimated that additional requirements of US$ 88,400 are likely to arise were the Committee to adopt the draft decision, prior experience on the pattern of meetings of the Committee suggests that additional requirements should not be proposed at this time. The Secretariat wishes to inform the Committee that, based on experience in the servicing of the sessions of the Committee in 2008 and decisions that will be taken by the Committee on the pattern of its sessions for 2009, it will inform the Committee in 2008 of any implications on the resources approved by the General Assembly under section 23 of the programme budget for the biennium 2008-2009.

Annex IV

STATEMENT BY THE COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES CONCERNING THE IDEA OF CREATING A SINGLE HUMAN RIGHTS TREATY BODY

1. The present statement is the contribution of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to the ongoing reform debate concerning the human rights treaty bodies.

2. The Committee recalls the Plan of Action of the United Nations High Commissioner for Human Rights (A/59/2005/Add.3) and the proposals contained therein for the reform of the human rights treaty bodies. The Committee expresses its appreciation for the concept paper by the High Commissioner for Human Rights concerning her proposal for a unified standing treaty body (HRI/MC/2006/2).

3. The Committee examined with great interest the High Commissioner's concept paper, which had the merit of identifying a number of challenges that are currently faced by the human rights treaty body system. The Committee recognizes the intention of the High Commissioner to propose practical measures aimed at finding solutions to the challenges identified.

4. The Committee has examined all the documents relating to the proposal contained in the concept paper, as well as the positions adopted by other treaty bodies in reaction to this proposal. The Committee would like to express its concern that the establishment of a unified standing treaty body replacing a specialized body monitoring the Convention on Migrant Workers may lead to a lack of specific attention to the rights of migrant workers. Beyond this concern about the loss of specificity of the Convention on Migrant Workers, the Committee is also concerned about losing its own identity, especially when it has only been in existence for few years and is still striving to develop that specific identity.

5. In view of these concerns, the Committee does not consider that the High Commissioner's proposal is feasible at this point. The establishment of a unified standing treaty body may constitute a long-term objective, but the Committee is, for the time being, strongly in favour of the focus being on the harmonization of the working methods of the treaty bodies and on greater cooperation between them in order to enhance the capacity of the treaty body system.

6. To that end, the Committee examined the proposals made by the Working Group on the harmonization of working methods. These include the idea of establishing a working group of the inter-committee meeting to discuss concrete proposals, or alternatively, the creation of a higher-level, decision-making body, which would replace the inter-committee meeting. The Committee favours the first option of establishing a working group of the inter-committee meeting. It believes that the inter-committee meeting should be maintained undiminished in its scope because it focuses not only on harmonization, but also discusses other matters of interest to the treaty bodies system. This working group could be mandated to make suggestions on harmonization of working methods to treaty bodies through the inter-committee meeting which should be maintained and its scope enhanced, if required.

Annex V

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 73 OF THE CONVENTION AS AT 27 APRIL 2007

State party	Type of report	Date due	Received
Algeria	Initial	1 August 2006	
Argentina	Initial	1 June 2008	
Azerbaijan	Initial	1 July 2004	
Belize	Initial	1 July 2004	
Bolivia	Initial	1 July 2004	22 January 2007
Bosnia and Herzegovina	Initial	1 July 2004	
Burkina Faso	Initial	1 March 2005	
Cape Verde	Initial	1 July 2004	
Chile	Initial	1 July 2006	
Colombia	Initial	1 July 2004	
Ecuador	Initial	1 July 2004	27 October 2006
Egypt	Second periodic	1 July 2009	
El Salvador	Initial	1 July 2004	19 February 2007
Ghana	Initial	1 July 2004	
Guatemala	Initial	1 July 2004	
Guinea	Initial	1 July 2004	
Honduras	Initial	1 December 2006	
Kyrgyzstan	Initial	1 January 2005	
Lesotho	Initial	1 January 2007	
Libyan Arab Jamahiriya	Initial	1 October 2005	
Mali	Second periodic	1 October 2009	
Mauritania	Initial	1 May 2008	
Mexico	Second periodic	1 July 2009	
Morocco	Initial	1 July 2004	
Nicaragua	Initial	1 February 2007	
Peru	Initial	1 January 2007	
Philippines	Initial	1 July 2004	
Senegal	Initial	1 July 2004	
Seychelles	Initial	1 July 2004	
Sri Lanka	Initial	1 July 2004	
Syrian Arab Republic	Initial	1 October 2006	21 November 2006
Tajikistan	Initial	1 July 2004	
Timor-Leste	Initial	1 May 2005	
Turkey	Initial	1 January 2006	
Uganda	Initial	1 July 2004	
Uruguay	Initial	1 July 2004	

Annex VI

LIST OF DOCUMENTS ISSUED OR TO BE ISSUED IN CONNECTION WITH THE FIFTH AND SIXTH SESSIONS OF THE COMMITTEE

CMW/C/5/1	Provisional agenda and annotations (fifth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families)
CMW/C/SR.39-48	Summary records of the fifth session of the Committee
CMW/C/6/1	Provisional agenda and annotations (sixth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families)
CMW/C/SR.49-58	Summary records of the sixth session of the Committee
CMW/C/MEX/1	Initial report of Mexico
CMW/C/MEX/1/Q	List of issues: Mexico
CMW/C/MEX/1/Q/Add.1	Written replies from the Government of Mexico to the list of issues
CMW/C/MEX/CO/1	Concluding observations of the Committee on the initial report by Mexico
CMW/C/EGY/1	Initial report of Egypt
CMW/C/EGY/1/Q	List of issues: Egypt
CMW/C/EGY/1/Q/Add.1	Written replies from the Government of Egypt to the list of issues
CMW/C/EGY/CO/1	Concluding observations of the Committee on the initial report of Egypt

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